

NO. 1048

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT.

WILLIAM BAER EWING,
Plaintiff in Error,

vs.

THE UNITED STATES OF
AMERICA,
Defendant in Error.

FILED
JUL 26 190

TRANSCRIPT OF RECORD.

Upon Writ of Error to the United States District
Court for the Northern District of California.

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Writ of Error (Original).

UNITED STATES OF AMERICA—ss.

The President of the United States, to the Honorable,
the Judge of the District Court of the United States
for the Northern District of California, Greeting:

Because, in the record and proceedings as also in the rendition of the judgment of a plea which is in the said District Court, before you, or some of you, between United States of America, defendant in error, a manifest error hath happened, to the great damage of the said William Baer Ewing, plaintiff in error, as by his complaint appears.

We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at the city of San Francisco, in the State of California, on the 15th day of March next, in the said Circuit Court of Appeals, to be then and there held, that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States, the 16th day of February, in the year of our Lord one thousand, nine hundred and four (1904).

GEO. E. MORSE,
Clerk of the United States District Court, Northern District of California.

Allowed by:

JOHN J. DE HAVEN,
U. S. District Judge.

The answer to the Judge of the District Court of the United States for the Northern District of California to the foregoing writ:

The record and proceedings whereof mention is within made, with all things touching the same, I certify under the seal of said Court to the United States Circuit Court of Appeals, for the Ninth Circuit, within mentioned, at the day and place within contained in a certain schedule to this writ annexed as within I am commanded.

By the Court.

[Seal]

GEO. E. MORSE,
Clerk.

[Endorsed]: No. 4065. United States Circuit Court of Appeals for the Ninth Circuit. William Baer Ewing, Plaintiff in Error, vs. United States of America, Defendant in Error. Writ of Error. Filed Feb. 16, 1904, Geo. E. Morse, Clerk. By J. S. Manley, Deputy Clerk.

Citation.

UNITED STATES OF AMERICA—ss.

The President of the United States, to the United States of America, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals, for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, on the 15th day of March, 1904, pursuant to a writ of error duly issued and now on file in the clerk's office of the District Court of the United States, for the Northern District of California, wherein William Baer Ewing in plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable JOHN J. DE HAVEN, Judge of the United States District Court for the Northern District of California, this 16th day of February, 1904,

JOHN J. DE HAVEN,

United States District Judge, Northern District of California.

Due service of the within citation admitted the 16th day of February, 1904.

MARSHALL B. WOODWORTH,

United States Attorney.

[Endorsed]: No. 4065. United States District Court for the Northern District of California. William Baer Ewing, Plaintiff in Error, vs. The United States of America. Citation. Filed February 16th, 1904. Geo. E. Morse, Clerk. By J. S. Manley, Deputy Clerk.

In the District Court of the United States, in and for the Northern District of California.

UNITED STATES OF AMERICA,	} Plaintiff	} No. 4065.
vs.		
WILLIAM BAER EWING and	} Defendants.	
GEORGE B. CHANEY,		

Praeceptum for Transcript.

To the Clerk of the said District Court:

Sir: Please make return to the writ of error issued herein, by transmitting to the United States Circuit Court of Appeals for the Ninth Circuit true copies of the following, viz:

1. The indictment in full.
2. The written objections to the indictment.
3. Order overruling written objections to indictment.
4. Verdict.
5. Judgment.
6. Motion for a new trial.
- 6½. Order denying motion for a new trial.
7. Bill of exceptions.

8. Petition for writ of error.
9. Order allowing writ of error.
10. Order granting supersedeas.
11. Assignment of errors.
12. Transmit the original writ of error.
13. Transmit the original citation on the writ of error.
14. Transmit copy of cost bond.
15. Stipulation and orders extending defendant William Baer Ewing's time to prepare, serve and file bill of exceptions.
16. Attach certificate to above as being the return to writ of error, and also certify that copy of writ of error was lodged with clerk for defendant in error, on date of issuance of writ.

Dated, March 9th, A. D. 1904.

Respectfully,

FRANK MCGOWAN,

BERT SCHLESINGER,

Attorneys for Plaintiff in Error.

[Endorsed]: Filed March 9th, 1904. Geo. E. Morse,
Clerk. By J. S. Manley, Deputy Clerk.

*In the District Court of the United States, in and for the
Northern District of California.*

Indictment.

(Section 5480, R. S. U. S., as amended by Act of March
2, 1889, Vol. 25, U. S. Stat. at L., p. 873.)

At a stated term of said Court, begun and holden at the
city and county of San Francisco, within and for the

Northern District of California, on the first Monday in November, in the year of our Lord one thousand, nine hundred and two.

The Grand Jurors of the United States of America, within and for the district aforesaid, on their oath present: That

WILLIAM BAER EWING and GEORGE B. CHANEY, late of the Northern District of California, heretofore, to wit, on the thirty-first day of December, in the year of our Lord one thousand, nine hundred, at the city and county of San Francisco, in the State and Northern District of California, then and there being, did then and there devise a scheme to defraud Charles F. Dosch, Mary Hanson, Annie Guthrie and certain other persons whose names are to the Grand Jurors aforesaid unknown, but who were then and there at the several times of the correspondence hereinafter referred to, residents of the United States of America; which said scheme to defraud was to be effected by opening correspondence and communication with such persons, and by distributing advertisements, circulars, prospectuses and letters by means of the postoffice establishment of the United States, and by inciting such persons to open a correspondence through such postoffice establishment, with them, the said William Baer Ewing and George B. Chaney, concerning said scheme, and which said scheme was then and there as follows, to wit:

That on the thirty-first day of December, one thousand nine hundred, the said William Baer Ewing and George

B. Chaney devised that they should organize and conduct together, and they did so organize and conduct together a corporation under the laws of the State of California, to be called and styled the "Standard Oil Promotion and Investment Company"; that it was then and there devised by the said William Baer Ewing and George B. Chaney, that the said George B. Chaney should be held out, and he was held out to be the vice-president, and the said William Baer Ewing should be held out, and he was held out to be the secretary and treasurer of the said Standard Oil Promotion and Investment Company.

That it was further devised by and between the said William Baer Ewing and George B. Chaney, that it should be claimed and represented, and they did so claim and represent to the persons whose names are hereinbefore mentioned, and to the public in general, that the said Standard Oil Promotion and Investment Company had an authorized capital stock of \$5,000,000; and that said company had a subscribed capital stock of \$2,500,000, and that said Standard Oil Promotion and Investment Company had funds on deposit in the First National Bank, in the Western National Bank and in the Germania Trust Company, and that said Standard Oil Promotion and Investment Company was licensed by the United States Government, and that said company was organized for the purpose of promoting generally the oil industry of the Pacific Coast, that said Standard Oil Promotion and Investment Company promoted and organized and would promote and organize Oil Companies on a strictly first-class basis, and that said Standard Oil Promotion and

Investment Company acted and would act as the general representatives of such oil companies, taking full charge of the sale of stock and general development of their lands; that the said Standard Oil Promotion and Investment Company, financed and would finance incorporated oil companies of from \$100,000 to \$5,000,000 capitalization and put them on a paying basis.

That it was further devised by the said William Baer Ewing and George B. Chaney that they should falsely represent, and they did so falsely represent to the persons whose names are hereinbefore mentioned, and to the public in general, that the said Standard Oil Promotion and Investment Company was transacting and would transact a co-operative investment business in oil stocks and properties and was giving and would give to the investor of limited means the same great opportunities enjoyed by the "Kings of Finance" and "Market Leaders"; that the investments of all the investors in the said Standard Oil Promotion and Investment Company were and would be included in transactions representing thousands of dollars, and that said investors were receiving and would receive pro rata shares of the profits of their said investments every thirty days, as the said profits were or thereafter should be earned; that a complete statement, together with a check for all profits earned was and would be sent to all investors at the end of each month, and that the only charge which was or would be made by the said Standard Oil Promotion and Investment Company for its services to said investors, was and would be twenty

per cent of the profits of the said investors on their said investments.

That it was further devised by and between the said William Baer Ewing and George B. Chaney, that it should be falsely represented and they did so falsely represent to the persons whose names are hereinbefore mentioned, and to the public in general, that the said William Baer Ewing and George B. Chaney, the secretary and treasurer and vice-president, respectively, of the said Standard Oil Promotion and Investment Company, as hereinbefore set forth, had made, and each of them had made, a life-long study of oil throughout the United States, and especially the oil fields of California; that the judgment of the said William Baer Ewing and George B. Chaney, based on many years' experience, would earn thousands of dollars for those who should follow the advice of the said William Baer Ewing and George B. Chaney in all matters pertaining to oil; that the said Standard Oil Promotion and Investment Company, was investing and would invest only in first-class stocks and properties which they, the said William Baer Ewing and George B. Chaney had thoroughly investigated and knew to be desirable in every particular; that the said Standard Oil Promotion and Investment Company had been and was represented in every oil producing district of California and Texas, and that the operations of the said Standard Oil Promotion and Investment Company in the new Texas fields would make the earnings of the investors in the said Standard Oil Promotion and Investment Company, even greater than they had ever been before.

That it was further devised by and between the said William Baer Ewing and George B. Chaney that it should be falsely represented and they did so falsely represent to the persons whose names are hereinbefore mentioned, and to the public in general, that the money invested by the investors in the said Standard Oil Promotion and Investment Company, was and would be always and at all times safe; that the said investors and each and all of them, might withdraw the entire amount of their investments after ninety days, together with all profits, by giving thirty days' notice in writing to the said Standard Oil Promotion and Investment Company.

And it was further devised by and between the said William Baer Ewing and George B. Chaney, that each and all of the said representations aforesaid, should be made and they were so made to the said Charles F. Dosch, Mary Hanson, and Annie Guthrie, and to each of them, and to certain other persons whose names are to the Grand Jurors aforesaid unknown, and that said scheme should be entered into and carried out, and it was so entered into and carried out by the said William Baer Ewing and George B. Chaney, with the intent and for the purpose of inducing the persons aforesaid and each of them and said other persons whose names are to the Grand Jurors aforesaid unknown, and any other persons who might be induced to enter into correspondence with the said William Baer Ewing and George B. Chaney, to give to them, the said William Baer Ewing and George B. Chaney, and to the said Standard Oil Promotion and Investment Company, certain property, goods and money

of the various persons aforesaid, and each of them, and of the other persons who might be induced to enter into correspondence with the said William Baer Ewing and George B. Chaney.

And said representations agreed by them to be made as aforesaid, were made by the said William Baer Ewing and George B. Chaney, to the persons aforesaid, and to the public in general, by means of oral statements, newspaper advertisements, letters, prospectuses and publications, and said representations so made as aforesaid, and each and all of them, was and were utterly false and untrue in fact, and said representations and each and all of them was and were well known by the said William Baer Ewing and George B. Chaney to be utterly false and untrue in fact, at the time they were so made as aforesaid; and said representations were made solely for the purpose of obtaining money, goods and property of the said persons whom they might induce to enter into correspondence with them.

That by reason of said false representations, so made by the said William Baer Ewing and George B. Chaney, as aforesaid, the said Charles F. Dosch, was induced to give and did give to the said William Baer Ewing and George B. Chaney, certain money, goods and property of the value of five hundred dollars, in lawful money of the United States of America, and the said Mary Hanson was induced to give and did give to the said William Baer Ewing and George B. Chaney, certain moneys, goods and property of the value of five hundred dollars, lawful money of the United States of America, and the said

Annie Guthrie was induced to give and did give to the said William Baer Ewing and George B. Chaney, certain money, goods and property of the value of four hundred dollars, in lawful money of the United States of America.

And the Grand Jurors aforesaid, on their oath aforesaid, do say, that in order to carry out and effect said scheme and artifice to defraud and in furtherance thereof, and in and for executing the same and attempting to do so, the said William Baer Ewing and George B. Chaney, on the third day of June in the year of our Lord one thousand nine hundred and one, at the city and county of San Francisco, in the State and Northern District of California, then and there being, did then and there wilfully, unlawfully and knowingly place and caused to be placed in the postoffice of the said United States, at the city and county of San Francisco, in the State and district aforesaid, to be sent and delivered by the said postoffice establishment of the United States, a certain letter, enclosed in a sealed envelope, duly stamped with a postage stamp of the United States of the denomination of two cents, and addressed to "Mr. Chas. F. Dosch, 611 K. St., Sacramento, Calif.," and which said letter was in the words and figures as follows, to wit:

“Long Distance Phone South 761. Cable Address ‘Sopic.’

STANDARD OIL PROMOTION AND INVESTMENT
CO., Incorporated.

Authorized Capital, \$5,000,000.

Subscribed Capital, \$2,500,000.

Depositories:

First National Bank,
Western National Bank,
Germania Trust Company.

Licensed by the United States Government.

575, 576, 577 Parrott Building.

San Francisco, U. S. A., June 1st, 1901.

Mr. Chas. F. Dosch, Sacramento, Calif.

Dear Sir: We earned for our certificate holders during the month of May, $10\frac{1}{2}\%$ profit on every dollar invested. Several transactions which we had hoped to close were carried over into the June accounts and we are now in a position to confidentially assure you that the June dividend will greatly exceed the one declared today.

Therefore, acting for your personal interest and advantage, we have added the profits, amounting to \$41, to your investment, which will increase the earning capacity and yield a large dividend for June operations.

Our holdings are greatly increasing in value from day to day, especially those in the Texas oil fields, and our earnings for the coming six months will be larger than any paid in the past.

During the past year our predictions have been correct in every instance and the present opportunity warrants you increasing your investment to that amount which you feel able.

We never advise our certificate holders unless we are sure of the results, and this letter is written to you confidentially, as it is strictly inside information. Therefore we assure you that the above will be to your interest, financially, if taken advantage of at once.

Yours very truly,

STANDARD OIL PROMOTION AND INVEST-
MENT CO.,

WILLIAM B. EWING,
Secretary and Treasurer.

WBE-MF Steno-1.

Against the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America, in such case made and provided.

SECOND COUNT.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present: That,

WILLIAM BAER EWING and GEORGE B. CHANEY, late of the Northern District of California, heretofore, to wit, on the thirty-first day of December, in the year of our Lord one thousand nine hundred, at the city and county of San Francisco, in the State and Northern District of California, then and there being, did then and there devise a scheme to defraud Charles F. Dosch,

Mary Hanson, Annie Guthrie, and certain other persons whose names are to the Grand Jurors aforesaid unknown, but who were then and there, at the several times of the correspondence hereinafter referred to residents of the United States of America; which said scheme to defraud was to be effected by opening correspondence and communication with such persons, and by distributing advertisements, circulars, prospectuses and letters by means of the postoffice establishment of the United States, and by inciting such persons to open a correspondence through such postoffice establishment, with them, the said William Baer Ewing and George B. Chaney, concerning said scheme, and which said scheme was then and there as follows, to wit:

That on the thirty-first day of December, one thousand nine hundred, the said William Baer Ewing and George B. Chaney devised that they should organize and conduct together, and they did so organize and conduct together, a corporation under the laws of the State of California, to be called and styled the "Standard Oil Promotion and Investment Company"; that it was then and there devised by the said William Baer Ewing and George B. Chaney, that the said George B. Chaney should be held out, and he was held out to be the vice-president, and the said William Baer Ewing should be held out, and he was held out to be the secretary and treasurer of the said Standard Oil Promotion and Investment Company.

That it was further devised by and between the said

William Baer Ewing and George B. Chaney, that it should be claimed and represented, and they did so claim and represent to the persons whose names are hereinbefore mentioned and to the public in general that the said Standard Oil Promotion and Investment Company had an authorized capital stock of \$5,000,000; and that said company had a subscribed capital stock of \$2,500,000, and that said Standard Oil Promotion and Investment Company had funds on deposit in the First National Bank, in the Western National Bank and in the Germania Trust Company, and that said Standard Oil Promotion and Investment Company was licensed by the United States Government, and that said company was organized for the purpose of promoting generally the oil industry of the Pacific Coast; that said Standard Oil Promotion and Investment Company promoted and organized and would promote and organize oil companies on a strictly first-class basis, and that said Standard Oil Promotion and Investment Company acted and would act as the general representatives of such oil companies, taking full charge of the sale of stock and general development of their lands; that the said Standard Oil Promotion and Investment Company, financed and would finance incorporated oil companies of from \$100,000 to \$5,000,000 capitalization and put them on a paying basis.

That it was further devised by the said William Baer Ewing and George B. Chaney, that they should falsely represent to the persons whose names are hereinbefore

mentioned, and to the public in general, that the said Standard Oil Promotion and Investment Company, was transacting and would transact a co-operative investment business in oil stocks and properties, and was giving and would give to the investor of limited means the same great opportunities enjoyed by the "Kings of Finance" and "Market Leaders"; that the investments of all the investors in the said Standard Oil Promotion and Investment Company were and would be included in transactions representing thousands of dollars, and that said investors were receiving and would receive pro rata shares of the profits of their investments every thirty days, as the said profits were or thereafter should be earned; that a complete statement together with a check for all profits earned was and would be sent to all investors at the end of each month, and that the only charge which was or would be made by the said Standard Oil Promotion and Investment Company, for its services to said investors, was and would be twenty per cent of the profits of the said investors on their said investments.

That it was further devised by and between the said William Baer Ewing and George B. Chaney, that it should be falsely represented and they did so falsely represent to the persons whose names are hereinbefore mentioned, and to the public in general, that the said William Baer Ewing and George B. Chaney, the secretary and treasurer and vice-president, respectively, of said Standard Oil Promotion and Investment Company, as hereinbefore set forth, had made, and each

of them had made, a lifelong study of oil throughout the United States, and especially the oil fields of California; that the judgment of the said William Baer Ewing and George B. Chaney, based on many years' experience, would earn thousands of dollars for those who should follow the advice of the said William Baer Ewing and George B. Chaney in all matters pertaining to oil; that the said Standard Oil Promotion and Investment Company was investing and would invest only in first-class stocks and properties which they, the said William Baer Ewing and George B. Chaney had thoroughly investigated and knew to be desirable in every particular; that the said Standard Oil Promotion and Investment Company had been and was represented in every oil producing district of California and Texas, and that the operations of the said Standard Oil Promotion and Investment Company in the new Texas fields would make the earnings of the investors in the said Standard Oil Promotion and Investment Company, even greater than they had ever been before.

That it was further devised by and between the said William Baer Ewing and George B. Chaney that it should be falsely represented and they did so falsely represent to the persons whose names are hereinbefore mentioned and to the public in general, that the money invested by the investors in the said Standard Oil Promotion and Investment Company, was and would be always and at all times safe; and that the said investors and each and all of them, might withdraw the entire amount of their investments after ninety days, together

with all profits, by giving thirty days' notice in writing to the said Standard Oil Promotion and Investment Company.

And it was further devised by and between the said William Baer Ewing and George B. Chaney, that each and all of the said representations aforesaid, should be made and they were so made to the said Charles F. Dosch, Mary Hanson and Annie Guthrie, and to each of them, and to certain other persons whose names are to the Grand Jurors aforesaid unknown, and that the said scheme should be entered into and carried out, and it was so entered into and carried out by the said William Baer Ewing and George B. Chaney, with the intent and for the purpose of inducing the persons aforesaid and each of them, and said other persons whose names are to the Grand Jurors aforesaid unknown, and any other persons who might be induced to enter into correspondence with the said William Baer Ewing and George B. Chaney, to give to them, the said William Baer Ewing and George B. Chaney, and to the said Standard Oil Promotion and Investment Company, certain property, goods and money of the various persons aforesaid, and each of them, and of the other persons who might be induced to enter into correspondence with the said William Baer Ewing and George B. Chaney.

And said representations agreed by them to be made as aforesaid, were made by the said William Baer Ewing and George B. Chaney, to the persons aforesaid, and to the public in general, by means of oral state-

ments, newspaper advertisements, letters, prospectuses and publications; and said representations, so made as aforesaid, and each and all of them, was and were utterly false and untrue in fact, and said representations and each and all of them, was and were well known by the said William Baer Ewing and George B. Chaney to be utterly false and untrue in fact, at the time they were so made as aforesaid; and said representations were made solely for the purpose of obtaining money, goods and property of the said persons whom they might induce to enter into correspondence with them.

That by reason of said false representations, so made by the said William Baer Ewing and George B. Chaney, as aforesaid, the said Charles F. Dosch, was induced to give and did give to the said William Baer Ewing and George B. Chaney, certain money, goods and property of the value of five hundred dollars, in lawful money of the United States of America, and the said Mary Hanson was induced to give and did give to the said William Baer Ewing and George B. Chaney, certain money, goods and property of the value of five hundred dollars, lawful money of the United States of America, and the said Annie Guthrie was induced to give and did give to the said William Baer Ewing and

George B. Chaney, certain money, goods and property of the value of four hundred dollars, in lawful money of the United States of America.

And the Grand Jurors aforesaid, on their oath aforesaid, do say, that in order to carry out and effect said scheme to defraud and in furtherance thereof, and in and for executing the same and attempting to do so, the said William Baer Ewing and George B. Chaney, on the third day of June, in the year one thousand nine hundred and one, at the city and county of San Francisco, in the State and Northern District of California, then and there being, did then and there willfully, unlawfully and knowingly place and cause to be placed in the postoffice of the said United States, at the said city and county of San Francisco, in the State and District aforesaid, to be sent and delivered by the said postoffice establishment of the United States, a certain letter, enclosed in a sealed envelope, duly stamped with a postage stamp of the United States of the denomination of two cents, and addressed to "Mrs. Mary Hanson, Broderick, Calif.," and which said letter was in the words and figures as follows, to wit:

Long Distance Phone South 761. Cable Address Sopic.

STANDARD OIL PROMOTION AND INVESTMENT
CO.,

Incorporated.

Authorized Capital \$5,000,000.

Subscribed Capital \$2,500,000.

Depositories:

First National Bank, Western National Bank,
Germania Trust Company.

Licensed by the United States Government.

575, 576, 577 Parrott Building,

San Francisco, U. S. A., June 1st, 1901.

Mrs. Mary Hanson, Broderick, Calif.

Dear Madam. We earned for our certificate holders during the month of May, 10-1/4% profit on every dollar invested. Several transactions which we had hoped to close were carried over into the June accounts and we are now in a position to confidentially assure you that the June dividend will greatly exceed the one declared to-day.

Therefore, acting for your personal interest and advantage, we have added the profits, amounting to \$41, to your investment, which will increase the earning capacity and yield a large dividend for June operations.

Our holdings are greatly increasing in value from day to day, especially those in the Texas oil fields, and our earnings for the coming six months will be larger than any paid in the past.

During the past year our predictions have been correct in every instance and the present opportunity warrants you increasing your investment to that amount which you feel able.

We never advise our certificate holders unless we are sure of the results, and this letter is written to you confidentially as it is strictly inside information. Therefore we assure you that the above will be to your interest financially, if taken advantage of at once.

Very truly yours,

STANDARD OIL PROMOTION AND INVESTMENT CO.,

WILLIAM B. EWING,
Secretary and Treasurer.

WBE-BG.

Sten-5.

Against the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America, in such case made and provided.

THIRD COUNT.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present: That

WILLIAM BAER EWING and GEORGE B. CHANEY, late of the Northern District of California, heretofore, to wit, on the thirty-first day of December, in the year of our Lord one thousand nine hundred, at the city and county of San Francisco, in the State and Northern District of California, then and there being, did then and

there devise a scheme to defraud Charles F. Dosch, Mary Hanson, Annie Guthrie, and certain other persons whose names are to the Grand Jurors aforesaid unknown, but who were then and there at the several times of the correspondence hereinafter referred to, residents of the United States of America; which said scheme to defraud was to be effected by opening correspondence and communication with such persons, and by distributing advertisements, circulars, prospectuses and letters by means of the postoffice establishment of the United States, and by inciting such persons to open a correspondence through such postoffice establishment, with them, the said William Baer Ewing and George B. Chaney, concerning said scheme, and which said scheme was then and there as follows, to wit:

That on the thirty-first day of December, one thousand nine hundred, the said William Baer Ewing and George B. Chaney devised that they should organize and conduct together a corporation under the laws of the State of California, to be called and styled the "Standard Oil Promotion and Investment Company"; that it was then and there devised by the said William Baer Ewing and George B. Chaney, that the said George B. Chaney should be held out, and he was held out to be the vice-president, and the said William Baer Ewing should be held out, and he was held out to be the secretary and treasurer of the said Standard Oil Promotion and Investment Company.

That it was further devised by and between the said

William Baer Ewing and George B. Chaney, that it should be claimed and represented, and they did so claim and represent to the persons whose names are hereinbefore mentioned, and to the public in general, that the said Standard Oil Promotion and Investment Company had an authorized capital stock of \$5,000,000; and that said Company had a subscribed capital stock of \$2,500,000, and that said Standard Oil Promotion and Investment Company had funds on deposit in the First National Bank, in the Western National Bank and in the Germania Trust Company, and that said Standard Oil Promotion and Investment Company was licensed by the United States Government, and that said company was organized for the purpose of promoting generally the oil industry of the Pacific Coast; that said Standard Oil Promotion and Investment Company promoted and organized, and would promote and organize oil companies on a strictly first-class basis, and that said Standard Oil Promotion and Investment Company acted and would act as the general representatives of such oil companies, taking full charge of the sale of stock and general development of their lands; that the said Standard Oil Promotion and Investment Company financed and would finance incorporated oil companies of from \$100,000 to \$5,000,000 capitalization and put them on a paying basis.

That it was further devised by the said William Baer Ewing and George B. Chaney, that they should falsely represent, and they did so falsely represent to the persons whose names are hereinbefore mentioned, and to the pub-

lic in general, that the Standard Oil and Promotion and Investment Company was transacting and would transact a co-operative investment business in oil stocks and properties, and was giving and would give to the investor of limited means the same great opportunities enjoyed by the "Kings of Finance" and "Market Leaders"; that the investments of all of the investors in the said Standard Oil Promotion and Investment Company were and would be included in transactions representing thousands of dollars, and that said investors were receiving and would receive pro rata shares of the profits of their said investments every thirty days, as the said profits were or thereafter should be earned; that a complete statement, together with a check for all profits earned was and would be sent to all investors at the end of each month, and that the only charge which was or would be made by the said Standard Oil Promotion and Investment Company for its services to said investors, was and would be twenty per cent of the profits of the said investors on their said investments.

That it was further devised by and between the said William Baer Ewing and George B. Chaney, that it should be falsely represented, and they did so falsely represent, to the persons whose names are hereinbefore mentioned, and to the public in general, that the said William Baer Ewing and George B. Chaney, the secretary and treasurer and vice-president, respectively, of the said Standard Oil Promotion and Investment Company, as hereinbefore set forth, had made, and each of them had made, a lifelong study of oil throughout the United

States, and especially the oil fields of California; that the judgment of the said William Baer Ewing and George B. Chaney, based on many years' experience, would earn thousands of dollars for those who should follow the advice of the said William Baer Ewing and George B. Chaney in all matters pertaining to oil; that the said Standard Oil Promotion and Investment Company was investing, and would invest only in first-class stocks and properties which they, the said William Baer Ewing and George B. Chaney, had thoroughly investigated and knew to be desirable in every particular; that the said Standard Oil Promotion and Investment Company had been and was represented in every oil-producing district of California and Texas, and that the operations of the said Standard Oil Promotion and Investment Company in the new Texas fields would make the earnings of the investors in the said Standard Oil Promotion and Investment Company even greater than they had ever been before.

That it was further devised by and between the said William Baer Ewing and George B. Chaney that it should be falsely represented and they did so falsely represent to the persons whose names are hereinbefore mentioned and to the public in general, that the money invested by the investors in the said Standard Oil Promotion and Investment Company, was and would be always and at all times safe; that the said investors and each and all of them, might withdraw the entire amount of their investments after ninety days, together with all profits, by giving thirty days' notice in writing to the said Standard Oil

Promotion and Investment Company. And it was further devised by and between the said William Baer Ewing and George B. Chaney, that each and all of the said representations aforesaid, should be made and they were so made to the said Charles F. Dosch, Mary Hanson, and Annie Guthrie, and to each of them, and to certain other persons whose names are to the Grand Jurors aforesaid unknown, and that said scheme should be entered into and carried out by the said William Baer Ewing and George B. Chaney, and it was so entered into and carried out by the said William Baer Ewing and George B. Chaney, with the intent and for the purpose of inducing the persons aforesaid and each of them, and said other persons whose names are to the Grand Jurors aforesaid unknown, and any other persons who might be induced to enter into correspondence with the said William Baer Ewing and George B. Chaney, to give to them, the said William Baer Ewing and George B. Chaney, and to the said Standard Oil Promotion and Investment Company, certain property, goods and money of the various persons aforesaid, and of each of them, and of the other persons who might be induced to enter into correspondence with the said William Baer Ewing and George B. Chaney.

And said representations agreed by them to be made as aforesaid, were made by the said William Baer Ewing and George B. Chaney, to the persons aforesaid, and to the public in general, by means of oral statements, newspaper advertisements, letters, prospectuses and publications; and said representations so made as aforesaid, and

each and all of them, was and were utterly false and untrue in fact, and said representations and each and all of them was and were well known by the said William Baer Ewing and George B. Chaney to be utterly false and untrue in fact, at the time they were so made as aforesaid; and said representations were made solely for the purpose of obtaining money, goods and property of the said persons who they might induce to enter into correspondence with them.

That by reason of said false representations, so made by the said William Baer Ewing and George B. Chaney, as aforesaid, the said Charles F. Dosch was induced to give and did give to the said William Baer Ewing and George B. Chaney, certain money, goods and property of the value of five hundred dollars, in lawful money of the United States of America, and the said Mary Hanson was induced to give and did give to the said William Baer Ewing and George B. Chaney, certain money, goods and property of the value of five hundred dollars, lawful money of the United States of America, and the said Annie Guthrie was induced to give and did give to the said William Baer Ewing and George B. Chaney, certain money, goods and property of the value of four hundred dollars, in lawful money of the United States of America.

And the Grand Jurors aforesaid, on their oath aforesaid, do say, that in order to carry out and effect said scheme and artifice to defraud and in furtherance thereof, and in and for executing the same and attempting to

wealth that is being produced in the California and Texas oil fields?

The following personal letter together with the inclosed prospectus will explain to you an extremely profitable and absolutely safe method of investment that will earn substantial profits monthly without any chance of loss to the original capital invested. We have never earned less than 3% a month for our certificate holders and many investors have made their first successful investment through this company.

Our method is strictly co-operative, which is the only plan which gives to the investor of limited means the same great opportunities enjoyed by the capitalist with millions at his command, and as we operate only in gilt-edge oil stocks and properties that have been thoroughly investigated by our experts, our certificate holders are at all times protected from a possible loss.

Your investment is included in transactions representing thousands of dollars and you receive a pro rata share of the profits every thirty days, as earned. A complete statement, together with a check for all profits earned is sent to you at the end of each month, our only charge for services is 20% of the profits.

Your money is always absolutely safe and may be withdrawn at any time as explained in the inclosed prospectus, and considering the safety of the investment and the immense profits that are being made in oil it will be to your personal advantage to give this matter your immediate attention.

We are well represented in every oil producing dis-

trict of California and Texas and our operations in the new Texas fields will make the earnings even greater than they have ever been before.

Mr. A. M. Aubertus of 810 Seventh Street, Sacramento, is our special representative of whom you can secure all further information.

Trusting that you will act upon this letter as your best judgment and personal interest dictates and awaiting an early reply, we remain,

Yours very truly,

STANDARD OIL PROMOTION AND INVESTMENT CO.,

WILLIAM B. EWING,
Secretary and Treasurer."

WBE—DC.

Steno—4

And which said printed pamphlet was in the words and figures as follows, to wit:

On the front cover of said pamphlet were the printed words in gilt letters "Standard Oil Promotion and Investment Company," and on the back cover of said pamphlet were the printed words in gilt letters "Depositories—First National Bank, Western National Bank, References, California Petroleum Miners' Association, Mining and Engineering Review, Pacific Oil Reporter, San Francisco."

And on the first page of the front flyleaf of said pamphlet were the printed words, "Standard Oil Promotion and Investment Company of San Francisco, U. S. A., 575, 576, 577 Parrott Building. Capital, \$5,000,000.00. Incor-

porated under the laws of California. Licensed by United States Government. Investors, Promoters and Financiers of Oil Stock, Properties and Companies.”

And on the opposite page of said front flyleaf of said pamphlet were the printed words, “Officers: Luther J. Robling, President. George B. Chaney, Vice-President. William B. Ewing, Sec’y and Treas. Directors: Luther J. Robling, Andrew A. Snyder, Benj. Hewitt Lummis, William B. Ewing, George B. Chaney. Attorneys: Hilton & McKinlay. Reliable experts throughout the California Oil Belts.”

And on the back flyleaf of which said pamphlet were the printed words, “Address all communications to Standard Oil Promotion and Investment Company 575, 576, 577 Parrott Bldg., San Francisco, California.”

And the body of which said pamphlet was in the words and figures as follows, to wit:

“General Features: The Standard Oil Promotion and Investment Co., was organized for the purpose of promoting, generally, the oil industry of the Pacific Coast. We promote and organize oil companies on a strictly first-class basis, and act as their general representatives, taking full charge of the sale of stock and general development of their lands. We finance incorporated oil companies of from \$100,000 to \$5,000,000 capitalization, and put them on a paying basis. We have made a lifelong study of oil throughout the United States and especially the oil fields of California, and our judgment, based on many years’ experience, will earn thousands of dollars

for those who follow our advice on all matters pertaining to oil.

We transact a co-operative investment business in oil stocks and properties and give to the investor of limited means the same great opportunities enjoyed by the 'Kings of Finance' and 'Market Leaders.' We take the small sums of thousands of investors and form them into one gigantic fund which gives us a tremendous power in our operations. In a word, we open to the investor of limited means the same great opportunities of making money hitherto enjoyed only by the investor with thousands of dollars at his command.

Points to Consider: There is probably but little more to be said of the California oil fields than that already chronicled in the press throughout the United States. While many men have become immensely wealthy through successful investment and operations in oil, others have lost the savings of a lifetime—money that was earned by years of toil. Companies have been organized whose only intent was to sell their worthless stock for hard-earned coin. The California oil industry, while yet in its infancy, has given birth to many such companies, and thousands upon thousands of shares of worthless stock, not worth the paper on which it was written, have been sold to a credulous public who receive nothing but broken promises for their money.

There are many good oil companies, but to detect the good from the bad require minute investigation, the best judgment and long experience. We invest only in first-class stocks and properties which we have thoroughly

investigated and know to be desirable in every particular. There are fortunes yet to be made in the California oil industry, and our method will bring you dollars, while others give you nothing but promises and prospects.

Co-operative Investment: The investment department of the Standard Oil Promotion and Investment Company is operated strictly upon the co-operative system. This is the only plan that gives to the investor with limited means the same power and opportunities of the man with millions at his command. Co-operation is the father of equality. Twenty-five dollars invested co-operatively has the same proportionate earning capacity that \$25,000 has. Co-operation increases the strength of capital just as it increases the strength of an army, it increases the power to earn as it lessens the chance of loss; it increases the profits proportionately, to the increase of working capital. If one hundred men with \$25 each put their money in one pool they have \$2,500 to work with instead of each working with \$25. They increase their strength and power one hundred times—that is co-operation. 'In union there is strength,' and in co-operation lies the secret of our success. We have many transactions where \$1,000 would be of no possible advantage, while in the same deal \$10,000 would reap a handsome profit. If you invest but \$25 with us you will earn the same profits, proportionately, that the investor with \$2,500 earns.

Profits Paid as Earned: The profits on your investment will, of course, depend largely upon our amount of working capital, and we do not presume to say just what profit we will earn for you from month to month. It is

predicted that the ensuing six months will witness greater activity in California oil than has ever been known. We will see a reign of prosperity that will surprise the most imaginative dreamers, and with our experience and many advantages we look forward to a run of profits that will satisfy beyond all expectations. You are always informed just what your investment is earning, as we send you a statement, showing the exact standing of your account every thirty days, together with a check for all profits earned. We retain 20 per cent of the profits in full for our services; no other charge whatsoever. Our system is thoroughly and entirely mutual; your gain is our gain. If you so desire, you may reinvest the profits by adding them to the original investment, thereby increasing the earning capacity and making the monthly profits proportionately greater. While the investment is at our discretion, it is always under your immediate direction.

Subject to Withdrawal: The one great disadvantage and drawback to most investments is the fact that your money is always tied up where you cannot get it. This feature is entirely eliminated from our method. You may withdraw the entire amount of your investment after ninety days, together with all profits, by giving thirty days' notice in writing, to the company. In other words, you can always realize upon your investment whenever you may require the money. This feature guarantees to you absolute safety as you know you can draw your money just when you want it. This feature always gives you the convenience and accom-

modation of a savings bank, while at the same time your money is continually active and earning large profits (which are placed to your credit) from month to month. You know at the end of every thirty days just what your investment has earned. No banking institution or investment company on record can offer you more liberal opportunities than those of the Standard Oil Promotion and Investment Company and surely there is no method of investment where a small amount of money will earn larger profits and assure you the absolute safety combined in our co-operative plan.

Mutual and Secure: It requires the same amount of detailed work to handle a small investment that it does to handle one well up in millions. But we have thoroughly equipped ourselves with every facility for handling the accounts of thousands of investors and will therefore, give precisely the same attention to all accounts, large and small. Amounts will be received for investment from \$25 to \$5,000. The company will issue for each investment a receipt or certificate of deposit in accordance with the plan described in this book. All investors will be treated alike and shall each receive a pro rata share of the profits earned for each month's transactions.

It is not necessary to invest a large amount to derive the benefits of our system. Co-operation creates all things equal. Twenty-five dollars is the smallest sum we receive, but ninety days of active operations may increase the sum four times the amount of the original

investment. Remember our plan is entirely mutual and every dollar we earn for you means a profit for us. No matter what the profits amount to, the original investment is always secure. We offer you a safe and profitable method of investment that will yield large returns without impairing the money invested."

Against the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America, in such case made and provided.

MARSHALL B. WOODWORTH,

United States Attorney.

The following named witnesses testified before the Grand Jury, viz.: Mrs. Annie Guthrie, Chas. F. Dosch, A. M. Aubertus, Mrs. Mary Hanson, Lorin H. Bricker.

[Endorsed]: A True Bill. Fredk. W. Zeile, Foreman Grand Jury. Presented in Open Court and Filed Decr. 31, 1902. Geo. E. Morse, Clerk. By J. S. Manley, Deputy Clerk.

At a stated term of the District Court of the United States for the Northern District of California, held at the courtroom in the city and county of San Francisco, on Thursday, the 14th day of January, A. D. 1903. Present: The Honorable JOHN J. DE HAVEN, Judge.

[Number and Title of Case.]

Plea.

In this case, the defendant with Frank McGowan, his attorney, being present in open court—on motion of Edward J. Banning, Assistant United States Attorney, the defendant Ewing was called upon to plead herein, and thereupon the defendant Ewing entered a plea of not guilty to the indictment on file herein. By agreement of the attorneys for the respective parties, it is ordered that the case be continued until Saturday, January 17th, 1903, on which day the date of the trial hereof will be set.

*In the District Court of the United States, in and for the
Northern District of California.*

THE UNITED STATES OF AMER-	}
ICA,	
	Plaintiff,
vs.	
WILLIAM BAIR EWING and	}
GEORGE B. CHANEY,	
	Defendants.

Objections to Indictment.

And now comes the said William Bair Ewing and objects to the introduction of any evidence in this cause for the reason and upon the grounds:

1st.

That the first count of the indictment does not contain or state facts sufficient to constitute a public offense in this:

(a) It does not appear from said count or from said indictment by whom "the said William Baer Ewing should be held out," or by whom "he was held out to be secretary and treasurer of said Standard Oil Promotion and Investment Company."

(b) That there is no allegation in said count to show or aver that the said Charles F. Dosch relied on or believed in any of the representations alleged in said count in giving to said defendants the said sum of five hundred dollars mentioned therein.

(c) That there is no allegation in said count to show or aver that the said Mary Hanson, named therein, relied on or believed in any of the representations alleged in said count in giving to defendants the said sum of five hundred dollars mentioned therein.

(d) That there is no allegation in said count to show or aver that Annie Guthrie, named therein, relied on or believed in any of the representations alleged in said count in giving to said defendants the said sum of four hundred dollars mentioned therein.

(e) There is a failure to allege in said count an essential element of the alleged offense, to wit, the said count does not allege, state or aver that there was, at any of the time or times named or designated in said count, an or any intent upon the part of the defendants, or either of them, to use the mails of the United States Government to defraud, or to further, carry out or promote the alleged fraudulent scheme or any unlawful, illegal or any intent or purpose whatever.

(f) There is no allegation in said count to show that the representations and statements, or either of them, alleged to have been represented and stated in said count by said defendants were represented or stated with an intent to deceive, mislead or defraud the persons named, to wit, Charles Dosch, Mary Hanson and Annie Guthrie, or that said representations were made with an illegal or unlawful or any intent to use the mails of the United States Government.

(g) There is no allegation in said count to show or aver that at any of the time or times mentioned therein

there was an intent on the part of said defendants, or either of them, to defraud any person through or by the agency of the mails of the United States Government, or that any matter or thing alleged or set forth in said count was done or represented by defendants, or either of them, with any such, or any intent whatever.

(h) There is no allegation in said count to show or aver that the defendants, or either of them, intended to effect the scheme mentioned and described therein by opening or intending to open correspondence with the persons named in said count, or with other persons to the Grand Jury unknown.

(i) It is not directly alleged in said count, nor does it appear therein, or therefrom, that the alleged scheme to defraud included or contemplated a use or abuse of the mails or the postoffice establishment of the United States.

(j) The said first count of said indictment is defective, in that it does not allege any intent upon the part of defendants, or either of them, to use or employ said United States mails as a part of said alleged fraudulent scheme.

(k) The said first count in said indictment is defective, in this: it is not alleged or charged therein that it was a part of the alleged fraudulent scheme that it should be effected by opening or inciting to correspondence by means of the postal establishment of the United States.

2d.

That the second count in said indictment does not

contain or state facts sufficient to constitute a public offense in this:

(a) It does not appear from said count by whom the said George B. Chaney should be held out, or by whom he was held out, as vice-president, or by whom the said William Bair Ewing should be held out, or by whom he was held out, to be the secretary and treasurer of the Standard Oil Promotion and Investment Company.

(b) There is no allegation in said count that either of said defendants ever falsely or otherwise represented to any person or persons any of the matters or things set forth on page ten of said indictment, between lines 4 and 26 thereof.

(c) There is no allegation in said count that any of the matters and things alleged and set forth as represented by said defendants were known to be, or were believed to be, false or untrue by said Charles F. Dosch, Mary Hanson and Annie Guthrie, or that either of the persons last named did not know the same to be false and untrue.

(d) There is no allegation in said second count to show or aver that Charles F. Dosch, Mary Hanson and Annie Guthrie, or either of them, relied upon or believed in any of the alleged representations or assertions alleged in the second count as represented by said defendants in giving the said several sums of money alleged to have been given by said persons last named.

(e) There is a failure to allege in said count an essential element of the alleged offense, to wit, the said

count does not allege, state or aver that there was at any of the time or times named or designated in said count an or any intent upon the part of defendants, or either of them, to use the mails of the United States Government to defraud, or to further, carry out or promote the alleged fraudulent scheme or any unlawful, illegal, or any intent or purpose whatever.

(f) There is no allegation in said count to show that the representations and statements, or either of them, alleged to have been represented and stated in said count by said defendants, were represented or stated with an intent to deceive, mislead or defraud the persons named, to wit, Charles Dosch, Mary Hanson and Annie Guthrie, or that said representations were made with an illegal or unlawful or any intent to use the mails of the United States Government.

(g) There is no allegation in said count to show or aver that at any of the time or times mentioned therein there was an intent on the part of the said defendants, or either of them, to defraud any person through or by the agency of the mails of the United States Government, or that any matter or thing alleged or set forth in said count was done or represented by defendants, or either of them, with any such, or any intent whatever.

(h) There is no allegation in said count to show or aver that the defendants or either of them intended to effect the scheme mentioned and described therein by opening or intending to open correspondence with the

persons named in said count, or with other persons to the Grand Jury unknown.

(i) It is not directly alleged in said count, nor does it appear therein or therefrom, that the alleged scheme to defraud included or contemplated a use or abuse of the mails or the postoffice establishment of the United States.

(j) The said second count of said indictment is defective in that it does not allege any intent upon the part of defendants, or either of them, to use or employ said United States mails as a part of said alleged scheme to defraud.

(k) The second count of said indictment is defective in this: It is not alleged or charge therein that it was a part of the alleged scheme to defraud that it should be effected by opening or inciting to correspondence by means of the postal establishment of the United States.

3d.

That the third count of said indictment does not state or allege facts sufficient to constitute a public offense in this:

(a) There is no allegation in said count to show by whom defendant Chaney, and defendant Ewing should be held out, or by whom they were ever held out to be respectively vice-president and secretary and treasurer, of the said Standard Oil Promotion and Investment Company.

(b) It does not appear from said third count by whom it should be claimed or represented that the said

Standard Oil Promotion and Investment Company has an authorized capital stock of \$5,000,000.00.

(c) There is no allegation in said count to show that Charles F. Dosch, Mary Hanson and Annie Guthrie did not know that the alleged representations were untrue or false.

(d) There is no allegation in said count to show or aver that Charles F. Dosch, Mary Hanson and Annie Guthrie believed in or relied upon any of the representations set forth in said count in giving to defendants or said Standard Oil Promotion and Investment Company the various sums of money mentioned therein, or at any time or at all.

(e) There is a failure to allege in said count an essential element of the alleged offense, to wit, the said count does not allege, state or aver that there was at any of the time or times named or designated in said count an or any intent upon the part of the defendants, or either of them, to use the mails of the United States Government to defraud, or to further carry out or promote the alleged fraudulent scheme, or any unlawful, illegal or any intent or purpose whatever.

(f) There is no allegation in said count to show that the representations and statements, or either of them, alleged to have been represented and stated in said count by said defendants were represented or stated with an intent to deceive, mislead or defraud the persons named, to wit, Charles F. Dosch, Mary Hanson and Annie Guthrie, or that the said representations were

made with an illegal or unlawful or any intent to use the mails of the United States Government.

(g) There is no allegation in said count to show or aver that at any of the time or times mentioned therein there was an intent on the part of said defendants, or either of them, to defraud any person through or by the agency of the mails of the United States Government, or that any matter or thing alleged or set forth in said count was done or represented by defendants, or either of them, with any such, or any intent whatever.

(h) There is no allegation in said count to show or aver that the defendants, or either of them, intended to effect the scheme mentioned and described therein by opening or intending to open correspondence with the persons named in said count, or with any other persons to the Grand Jury unknown.

(i) It is not directly alleged in said count, nor does it appear therein or therefrom, that the alleged scheme to defraud included or contemplated a use or abuse of the mails or the postoffice establishment of the United States.

(j) The said third count of said indictment is defective in this, that it is not alleged or charged therein that it was a part of the alleged scheme to defraud that it should be effected by opening or inciting to correspondence by means of the postal establishment of the United States.

[Endorsed]: Filed Feb. 1, 1904. George E. Morse, Clerk. By John Fouga, Deputy Clerk.

At a stated term of the District Court of the United States for the Northern District of California, held at the courtroom in the city and county of San Francisco, on Monday, the 1st day of February, A. D. 1904. Present: The Honorable JOHN J. DE HAVEN, Judge.

[Number and Title of Case.]

Order Overruling Objections to Indictment.

* * * * *

Mr. McKinley stated the case of the Government to the Court and jury. Mr. McGowan then read and filed objections to the indictment, which objections were by order of the Court overruled, to which order Mr. McGowan excepted.

* * * * *

In the District Court of the United States, Northern District of California.

THE UNITED STATES OF AMERICA,
ICA,
vs.
W. B. EWING, et al. } No. 4065.

Verdict.

We, the jury, find W. B. Ewing, the prisoner at the bar, guilty as charged.

P. I. JOYCE,
Foreman.

[Endorsed]: Filed February 3d, 1904, at 11 o'clock and 35 minutes A. M. Geo. E. Morse, Clerk. By J. S. Manley, Deputy Clerk.

In the District Court of the United States, in and for the Northern District of California.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM BAER EWING and
GEORGE B. CHANEY,

Defendants.

Motion of Defendant William Baer Ewing for a New Trial.

And now comes the said defendant, William Baer Ewing, and moves this Court at this time to vacate, annul, and set aside the verdict of the jury heretofore rendered against said defendant, and to grant him a new trial and a rehearing of this cause, upon the grounds:

1st.

That the said Court misdirected the jury in matters of law occurring at the trial.

2d.

That the said Court erred in the decision of questions of law arising during the course of the trial.

3d.

That the verdict is contrary to law.

4th.

That the verdict above named is contrary to the evidence.

5th.

That the indictment in this cause does not state facts sufficient to constitute a public offense.

FRANK MCGOWAN,
Attorney for Defendant, Ewing.

[Endorsed]: Filed this 6th day of February, A. D. 1904. Geo. E. Morse, Clerk. By J. S. Manley, Deputy Clerk.

At a stated term of the District Court of the United States for the Northern District of California, held at the courtroom in the city and county of San Francisco, on Saturday, the 6th day of February, A. D. 1904. Present: The Honorable JOHN J. DE HAVEN, Judge.

[Number and Title of Case.]

Order Denying Motion for a New Trial.

* * * * *

Mr. McGowan thereupon led a motion for a new trial. Said motion was thereupon submitted to the Court for decision without argument. After due consideration had thereon, it is by the Court ordered that said motion be, and the same is hereby, denied.

* * * * *

At a stated term of the District Court of the United States, for the Northern District of California, held at the courtroom in the city and county of San Francisco, on Saturday, the 6th day of February, A. D. 1904. Present: The Honorable JOHN J. DE HAVEN, Judge.

THE UNITED STATES OF AMERICA,
ICA,
vs.
WILLIAM BAER EWING, et al. } No. 4065.

Convicted of using the mails to further a scheme to defraud. Sec. 5480, R. S., U. S., as amended by Act of March 2, 1889.

Judgment on Verdict of Guilty as to Defendant Ewing.

Benjamin L. McKinley, Assistant United States Attorney, the defendant William Baer Ewing, and his counsel, Frank McGowan, came into court. The defendant was duly informed by the Court of the nature of the indictment filed on the 31st day of December, 1902, charging him with using the mails to further a scheme to defraud; of his arraignment and plea of not guilty; of his trial, and the verdict of the jury on the 3d day of February, 1904, to wit: "We, the jury, find W. B. Ewing, the prisoner at the bar, guilty as charged."

The defendant, Ewing, was then asked if he had any legal cause to show why judgment should not be pronounced against him, and no sufficient cause being shown or appearing to the Court, thereupon the Court rendered its judgment:

That whereas, the said William Baer Ewing, having been duly convicted in this court of using the mails to further a scheme to defraud—

It is therefore ordered, adjudged and decreed that the said William Baer Ewing be, and he is hereby, sentenced to pay a fine of five hundred (500) dollars, and to be imprisoned for the term of fifteen (15) months. And it is further ordered that said sentence of imprisonment be executed upon the said William Baer Ewing by imprisonment in the State Prison of the State of California, at San Quentin, Marin County, California.

JOHN J. DE HAVEN,
United States District Judge, Northern District of California.

[Endorsed]: Filed Feb'y 6th, 1904. Geo. E. Morse,
Clerk.

*In the District Court of the United States, in and for the
Northern District of California.*

THE UNITED STATES OF AMER-	}
ICA,	
	Plaintiff,
vs.	}
i	
WILLIAM BAER EWING and	
GEORGE B. CHANEY,	
	Defendants.

**Order Fixing Time of Defendant William Baer Ewing to Pre-
pare, Serve and File Bill of Exceptions Upon Motion for
Arrest of Judgment.**

Good cause appearing therefor, the said defendant, William Baer Ewing, is hereby allowed fifteen days from the date hereof in which to prepare, and serve a bill of exceptions upon his motion for arrest of judgment.

Dated, February 6th, 1904.

JOHN J. DE HAVEN,

Judge.

[Endorsed]: Filed Feb. 6, 1904. Geo. E. Morse, Clerk.

By J. S. Manley, Deputy Clerk.

*In the District Court of the United States, in and for the
Northern District of California.*

THE UNITED STATES OF AMER-
ICA,

Plaintiff;

vs.

WILLIAM BAER EWING and
GEORGE B. CHANEY,

Defendants.

**Order Fixing Time of Defendant William Baer Ewing to Pre-
pare, Serve and File Bill of Exceptions Upon Motion for
New Trial.**

Good cause appearing therefor, the said defendant, William Baer Ewing, is hereby allowed fifteen days from the date hereof in which to prepare and serve a bill of exceptions upon his motion for a new trial herein.

Dated, February 6th, 1904.

JOHN J. DE HAVEN,

Judge.

[Endorsed]: Filed Feb. 6, 1904. Geo. E. Morse, Clerk.

By J. S. Manley, Deputy Clerk.

*In the District Court of the United States, in and for the
Northern District of California.*

THE UNITED STATES OF AMER-
ICA,

vs.

WILLIAM BAER EWING and
GEORGE B. CHANEY,

Defendants.)

No. 4065.

Stipulation Extending Time to File Bill of Exceptions.

It is hereby stipulated and agreed that defendant, William Baer Ewing shall have ten days further time from and after the date hereof in which to prepare, serve and file his bill of exceptions herein.

Dated San Francisco, Cal., February 12, 1904.

MARSHALL B. WOODWORTH,

United States Attorney.

[Endorsed] : Filed Feb. 12, 1904. Geo. E. Morse, Clerk.

*In the District Court of the United States, in and for the
Northern District of California.*

THE UNITED STATES OF AMER-
ICA,

vs.

WILLIAM BAER EWING and
GEORGE B. CHANEY,

Defendants.)

No. 4065.

**Order Extending Time to Prepare, Serve and File Bill of
Exceptions.**

Good cause appearing therefor, it is hereby ordered that defendant, William Baer Ewing, have, and he is hereby, granted ten days further time from and after the date hereof in which to prepare, serve and file his bill of exceptions herein.

Dated, San Francisco, Cal., February 12, 1904.

JOHN J. DE HAVEN,

United States District Judge.

[Endorsed]: Filed February 12th, 1904. Geo. E. Morse, Clerk. By J. S. Manley, Deputy Clerk.

*In the District Court of the United States, in and for the
Northern District of California.*

THE UNITED STATES OF AMER-
ICA,

vs.

WILLIAM BAER EWING and
GEORGE B. CHANEY,

Defendants.

No. 4065.

Petition for and Order Allowing Writ of Error.

To the Honorable JOHN J. DE HAVEN, Judge of the
District Court of the United States, in and for the
Northern District of California:

The petition of William Baer Ewing respectfully shows, that on the 6th day of February, A. D. 1904, the said District Court rendered its judgment herein against your petitioner, sentencing the defendant, William Baer Ewing, to pay a fine of five hundred dollars, and to be imprisoned for the term of fifteen months in the State Prison of the State of California, at San Quentin, Marin County, California.

That the said United States of America is plaintiff herein, and the said William Baer Ewing and George B. Chaney are the defendants.

That the said judgment is final; that your petitioner, William Baer Ewing, claims a writ of error herein against said judgment, and upon the following grounds, viz.:

First.—That the said District Court committed manifest error in said action in overruling, disallowing, and denying the said defendant's written objections to the indictment in said action, which said ruling is to the great detriment, injury and prejudice of your petitioner, William Baer Ewing, and in violation of the rights conferred upon him by law.

Second.—That the said District Court committed manifest error in denying, refusing and overruling defendant's motion for a new trial. Which ruling is to the great detriment, injury and prejudice of your petitioner, and in violation of the rights conferred upon him by law.

Third.—That the said District Court committed manifest error in denying, refusing and overruling the defendant, William Baer Ewing's, motion in arrest of judgment. Which ruling is to the great detriment, injury and prejudice of your petitioner, and in violation of the rights conferred upon him by law.

Fourth.—That the said District Court committed manifest error in sentencing defendant, William Baer Ewing, to pay a fine of five hundred dollars, and to be imprisoned for the term of fifteen months in the State Prison of the State of California at San Quentin, Marin County, California, which judgment is to the great detriment, injury and prejudice of your petitioner, and contrary to and in violation of the right conferred upon him by law.

All of which errors above enumerated appear affirmatively from the record and proceedings herein, to

which reference is hereby made; that said errors are to the great damage of your petitioner; and he therefore prays that he be allowed a writ of error herein, and such other process as will enable him to obtain a review of the case and a correction of said errors by the United States Circuit Court of Appeals for the Ninth Circuit; and your petitioner will ever pray, etc.

WILLIAM BAER EWING,
Petitioner.

FRANK MCGOWAN,
BERT SCHLESINGER,
Attorneys for Petitioner.

Upon the foregoing petition it appears that the writ of error therein prayed for of right ought to issue.

It is therefore ordered that said writ of error be, and the same hereby is, allowed, and the petitioner is ordered to furnish upon said writ a bond for costs and damages in the penal sum of two hundred dollars, and conditioned as prescribed by law.

Dated February 16th, 1904.

JOHN J. DE HAVEN,
Judge of the District Court of the United States, Northern District of California.

Service of the within by receipt of a copy is hereby admitted the 16th day of February, 1904.

MARSHALL B. WOODWORTH,
United States Attorney.

[Endorsed]: Filed February 16th, 1904. Geo. E. Morse, Clerk. By J. S. Manley, Deputy Clerk.

*In the United States Circuit Court of Appeals, for the Ninth
Circuit.*

WILLIAM BAER EWING,	}	No. 4065.
Plaintiff in Error,		
vs.	}	
THE UNITED STATES OF AMER-		
ICA,		
Defendant in Error.		

Assignment of Errors.

Now comes the defendant, William Baer Ewing, the plaintiff in error herein, by Frank McGowan and Bert Schlesinger, his attorneys, and specifies the following as the errors upon which he will rely and will urge upon his writ of error in the above-entitled action, viz:

First.—That the District Court committed manifest error in said action in overruling, disallowing, and denying the said defendant's written objections to the indictment in said action, which said ruling is to the great detriment, injury and prejudice of the defendant, William Baer Ewing, and in violation of the rights conferred upon him by law.

Second.—That the said District Court committed manifest error in denying, refusing and overruling defendant's motion for a new trial. Which ruling is to the great detriment, injury and prejudice of your petitioner, and in violation of the rights conferred upon him by law.

Third.—That the said District Court committed

manifest error in denying, refusing and overruling the defendant's motion in arrest of judgment. Which ruling is to the great detriment, injury and prejudice of defendant, and in violation of the rights conferred upon him by law.

Fourth.—That the said District Court committed manifest error in sentencing defendant, William Baer Ewing, to pay a fine of five hundred dollars, and to be imprisoned for the term of fifteen months in the State Prison of the State of California, at San Quentin, Marin County, California, which judgment is to the great detriment, injury and prejudice of your petitioner, and contrary to and in violation of the rights conferred upon him by law.

Whereas, by the law of the land said judgment ought to have been given for said William Baer Ewing, plaintiff in error; and the said plaintiff in error prays the judgment to be reversed, annulled, and altogether held for naught, and that he be restored to all things which he hath lost by reason of the said judgment.

FRANK MCGOWAN,

BERT SCHLESINGER.

Attorneys for William Baer Ewing, Plaintiff in Error.

Received a copy of the within the 16th day of February, A. D. 1904.

MARSHALL B. WOODWORTH,

United States Attorney.

[Endorsed]: Filed February 16th, 1904. Geo. E. Morse, Clerk. By J. S. Manley, Deputy Clerk.

*In the District Court of the United States, in and for the
Northern District of California.*

THE UNITED STATES OF AMERICA,

vs.

WILLIAM BAER EWING and
GEORGE B. CHANEY,
Defendants.

No. 4065.

Bill of Exceptions.

Be it remembered, that this case came on regularly for trial on the first day of February, A. D. 1904, before said District Court and a jury impaneled to try the same.

Benjamin L. McKinley, Esq., Assistant United States Attorney, appearing for the United States, and Frank McGowan, Esq., appearing as attorney for defendant, William Baer Ewing.

That immediately after the impanelment of the jury as aforesaid, the said defendant, William Baer Ewing, objected among other grounds to the introduction of any evidence in said cause, for the reason and upon the ground, that said indictment does not state or contain facts sufficient to constitute a public offense.

That the Court overruled said objection, to which defendant then and there duly excepted.

The Government thereupon introduced evidence, oral and documentary, tending to prove all of the allegations contained in the indictment, and after argument of respective counsel, the Court delivered the charge to

the jury, and the said action was thereupon submitted to the jury for determination, and after deliberating, the jury returned a verdict against said defendant, William Baer Ewing, finding him guilty as charged; that to said verdict the defendant, William Baer Ewing, then and there duly excepted.

Thereupon the defendant moved the Court to vacate, annul and set aside the verdict of the jury heretofore rendered against said defendant, and to grant him a new trial and a rehearing of said cause, upon the ground, among others:

“That the indictment in this cause does not state facts sufficient to constitute a public offense.”

Said motion was thereupon denied.

That the said defendant, William Baer Ewing, then filed a motion in arrest of judgment, which motion was and is in the words following, to wit:

“In the District Court of the United States, in and for the Northern District of California.

THE UNITED STATES OF AMERICA,	} Plaintiff,
vs.	
WILLIAM BAER EWING and GEORGE B. CHANEY,	} Defendants.

“And now comes the defendant, William Baer Ewing, and before the passing of sentence or judgment herein, moves to arrest judgment in this case, and that no

judgment be rendered herein upon the verdict of guilty against this defendant, upon the grounds:

1st.

“That the first count of the indictment does not contain or state facts sufficient to constitute a public offense in this:

“(a) It does not appear from said count or from said indictment by whom ‘the said William Baer Ewing should be held out,’ or by whom ‘he was held out to be secretary and treasurer of said Standard Oil Promotion and Investment Company.’

“(b) That there is no allegation in said count to show or aver that the said Charles F. Dosch relied on or believed in any of the representations alleged in said count in giving to said defendants the said sum of five hundred dollars mentioned therein.

“(c) That there is no allegation in said count to show or aver that the said Mary Hanson, named therein, relied on or believed in any of the representations alleged in said count in giving to defendants the said sum of five hundred dollars mentioned therein.

“(d) That there is no allegation in said count to show or aver that Annie Guthrie, named therein, relied on or believed in any of the representations alleged in said count in giving to said defendants the said sum of four hundred dollars mentioned therein.

“(e) That there is a failure to allege in said count an essential element of the alleged offense, to wit, the said count does not allege, state or aver that there was,

at any of the time or times named or designated in said count, an or any intent upon the part of the defendants, or either of them, to use the mails of the United States Government to defraud, or to further, carry out or promote the alleged fraudulent scheme or any unlawful, illegal or any intent or purpose whatever.

“(f) That there is no allegation in said count to show that the representations or statements, or either of them, alleged to have been represented and stated in said count by said defendants were represented or stated with an intent to deceive, mislead or defraud the persons named, to wit: Charles Dosch, Mary Hanson and Annie Guthrie, or that said representations were made with an illegal or unlawful or any intent to use the mails of the United States Government.

“(g) That there is no allegation in said count to show or aver at any of the time or times mentioned therein there was an intent on the part of said defendants, or either of them, to defraud any person through or by the agency of the mails of the United States Government, or that any matter or thing alleged or set forth in said count was done or represented by defendants, or either of them, with any such, or any intent whatever.

“(h) That there is no allegation in said count to show or aver that the defendants, or either of them, intended to effect the scheme mentioned and described therein by opening or intending to open correspondence with the persons named in said count, or with other persons to the Grand Jury unknown.

“(i) It is not directly alleged in said count, nor does it appear therein, or therefrom, that the alleged scheme to defraud included or contemplated a use or abuse of the mails of the postoffice establishment of the United States.

“(j) The said first count of said indictment is defective in that it does not allege any intent upon the part of defendants, or either of them, to use or employ said United States mails as a part of said alleged fraudulent scheme.

“(k) The said first count in said indictment is defective in this—it is not alleged or charged therein that it was a part of the alleged fraudulent scheme that it should be effected by opening or inciting to correspondence by means of the postal establishment of the United States.”

2d.

“That the second count in said indictment does not contain or state facts sufficient to constitute a public offense in this:

“(a) It does not appear from said count by whom the said George B. Chaney should be held out, or by whom he was held out, as vice-president, or by whom the said William Baer Ewing should be held out, or by whom he was held out, to be the secretary and treasurer of the Standard Oil Promotion and Investment Company.

“(b) There is no allegation in said count that either of said defendants ever falsely or otherwise represented to any person or persons any of the matters or things

set forth on page ten of said indictment between lines 4 and 26 thereof.

“(c) That there is no allegation in said count that any of the matters and things alleged and set forth as represented by said defendants were known to be, or were believed to be, false or untrue by said Charles F. Dosch, Mary Hanson and Annie Guthrie, or that either of the persons last named did not know the same to be false and untrue.

“(d) That there is no allegation in said second count to show or aver that Charles F. Dosch, Mary Hanson and Annie Guthrie, or either of them, relied upon or believed in any of the alleged representations or assertions alleged in the said second count as represented by said defendants in giving the said several sums of money alleged to have been given by said persons last named.

“(e) There is a failure to allege in said count an essential element of the alleged offense, to wit, the said count does not allege, state or aver that there was at any of the time or times named or designated in said count an or any intention upon the part of defendants, or either of them, to use the mails or the United States Government to defraud, or to further, carry out or promote the alleged fraudulent scheme or any unlawful, illegal, or any intent or purpose whatever.

“(f) There is no allegation in said count to show that the representations and statements, or either of them, alleged to have been represented and stated in said count by said defendants, were represented or

stated with an intent to deceive, mislead or defraud the persons named, to wit: Charles Dosch, Mary Hanson and Annie Guthrie, or that said representations were made with an illegal or unlawful or any intent to use the mails of the United States Government.

“(g) There is no allegation in said count to show or aver that at any of the time or times mentioned therein there was an intent on the part of the said defendants, or either of them, to defraud any person through or by the agency of the mails of the United States Government, or that any matter or thing alleged or set forth in said count was done or represented by defendants, or either of them, with any such, or any intent whatever.

“(h) That there is no allegation in said count to show or aver that the defendants or either of them intended to effect the scheme mentioned and described therein by opening or intending to open correspondence with the persons named in said count, or with other persons to the Grand Jury unknown.

“(i) It is not directly alleged in said count, nor does it appear therein or therefrom that the alleged scheme to defraud included or contemplated a use or abuse of the mails of the postoffice establishment of the United States.

“(j) The said second count of said indictment is defective in that it does not allege any intent upon the part of defendants, or either of them, to use or employ said United States mails as a part of said alleged scheme to defraud.

“(k) The said second count of said indictment is defective in this: It is not alleged or charged therein that it was a part of the alleged scheme to defraud that it should be effected by opening or inciting to correspondence by means of the postal establishment of the United States.”

3d.

“That the third count of said indictment does not state or allege facts sufficient to constitute a public offense in this:

“(a) That there is no allegation in said count to show by whom defendant Chaney and defendant Ewing, should be held out, or by whom they were ever held out to be represented respectively vice-president, and secretary and treasurer, of the said Standard Oil Promotion and Investment Company.

“(b) It does not appear from said third count by whom it should be selected, claimed or represented that the said Standard Oil Promotion and Investment Company has an authorized capital stock of \$5,000,000.00.

“(c) There is no allegation in said count to show that Charles F. Dosch, Mary Hanson and Annie Guthrie did not know that the alleged representations were untrue or false.

“(d) There is no allegation in said count to show or aver that Charles F. Dosch, Mary Hanson and Annie Guthrie believed in or relied upon any of the representations set forth in said count in giving to defendants or said Standard Oil Promotion and Investment Com-

pany the various sums of money mentioned therein, or at any time or at all.

“(e) There is a failure to allege in said count an essential element of the alleged offense, to wit: The said count does not allege, state or aver that there was at any time or times named or designated in said count an or any intent upon the part of the defendants, or either of them, to use the mails of the United States Government to defraud, or to further, carry out or promote the alleged fraudulent scheme, or any unlawful, illegal or any intent or purpose whatever.

“(f) There is no allegation in said count to show that the representations and statements, or either of them, alleged to have been represented and stated in said count by said defendants were represented or stated with an intent to deceive, mislead or defraud the persons named, to wit: Charles F. Dosch, Mary Hanson and Annie Guthrie, or that the said representations were made with an illegal or unlawful or any intent to use the mails of the United States Government.

“(g) There is no allegation in said count to show or aver that at any of the time or times mentioned therein there was an intent on the part of said defendants, or either of them, to defraud any person through or by the agency of the mails of the United States Government, or that any matter or thing alleged or set forth in said count was done or represented by defendants, or either of them, with any such or any intent whatever.

“(h) There is no allegation in said count to show or aver that the defendants, or either of them, intended

to effect the scheme mentioned and described therein by opening or intending to open correspondence with the persons named in said count, or with any other persons to the Grand Jury unknown.

“(i) It is not directly alleged in said *court*, nor does it appear therein or therefrom, that the alleged scheme to defraud included or contemplated a use or abuse of the mails or the postoffice establishment of the United States.

“(j) The said third count of said indictment is defective in this, that it is not alleged or charged therein that it was a part of the alleged scheme to defraud that it should be effected by opening or inciting to correspondence by means of the postal establishment of the United States.

“(Signed) FRANK McGOWAN,

“Attorney for Defendant, William Baer Ewing.

“[Endorsed]: Filed this 6th day of February, A. D. 1904. Geo. E. Morse, Clerk. By J. S. Manley, Deputy Clerk.”

That after argument the said court denied the said motion in arrest of judgment, to which ruling the said defendant, William Baer Ewing, then and there duly excepted.

That the said court thereupon pronounced its judgment, wherein and whereby it sentenced the said defendant, William Baer Ewing, to pay a fine of five hundred dollars, and to be imprisoned for the term of fifteen months, and that the sentence of imprison-

ment be executed upon the said William Baer Ewing by imprisonment in the State Prison of the State of California, at San Quentin, Marin County, California.

That to said judgment, the said defendant then and there duly excepted.

The foregoing bill of exceptions is hereby on the 4th day of March, A. D. 1904, settled, allowed and certified to be correct. And I do further certify that defendant William Baer Ewing's bill of exceptions was after due notice to the counsel representing the United States, presented to me for settlement on the 2d day of March, A. D. 1904.

Dated March 4th, 1904.

JOHN J. DE HAVEN,
United States District Judge.

Due service of the within proposed bill of exceptions is hereby admitted the 16th day of February, 1904.

MARSHALL B. WOODWORTH,
United States Attorney.

[Endorsed]: Filed Mar. 4, 1904. Geo. E. Morse,
Clerk.

*In the District Court of the United States, in and for the
Northern District of California.*

THE UNITED STATES OF AMER-
ICA,

vs.

WILLIAM BAER EWING and
GEORGE B. CHANEY,
Defendants.

No. 4065.

Order Granting Supersedeas and Admitting to Bail.

A writ of error having been allowed in the above-entitled action, it is, upon motion made in behalf of the defendant, W. B. Ewing, ordered that a supersedeas upon the judgment in said writ mentioned be, and the same is hereby, granted; and it is further ordered that pending the determination of the said writ of error the therein-named William Baer Ewing be, and he is hereby, admitted to bail in the sum of six thousand dollars, the sureties to justify before the clerk of the District Court of the United States, for the Northern District of California, upon notice to the United States Attorney for said District; and upon furnishing said bail, it is ordered that the said William Baer Ewing be released and discharged from imprisonment on said judgment.

Dated February 16th, A. D. 1904.

JOHN J. DE HAVEN,
United States District Judge.

Received a copy of the within the 16th day of February,
A. D. 1904.

MARSHALL B. WOODWORTH,
United States Attorney.

[Endorsed]: Filed Feb. 16, 1904. Geo. E. Morse, Clerk.

THE AETNA INDEMNITY COMPANY,
Hartford, Conn.

*In the District Court of the United States, for the North-
ern District of California*

THE UNITED STATES OF AMERICA,
ICA,
vs.
WILLIAM BAER EWING and
GEORGE B. CHANEY,
Defendants.

No. 4065.

Bond on Writ of Error.

Know all men by these presents, that we, William Baer Ewing, as principal, and the Aetna Indemnity Company of Hartford, Connecticut, as surety, are held and firmly bound unto the United States of America, in the full and just sum of two hundred (\$200.00) dollars, gold coin of the United States, to be paid to the said United States; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated the 17th day of February, A. D. 1904.

Whereas, lately, at a session of the District Court of the United States, in and for the Northern District of California, in a criminal action pending in said Court, and entitled, "United States of America vs. William Baer Ewing and George B. Chaney, No. 4065," a final judgment was rendered against the said William Baer Ewing, and the said William Baer Ewing having obtained a writ of error and lodged a copy thereof in the clerk's office of the said court to reverse the said judgment in the aforesaid action, and a citation directed to the United States, citing and admonishing it to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit on the 15th day of March, A. D. 1904.

Now, the condition of the above obligation is such that if the said William Baer Ewing shall prosecute said writ of error to effect, and answer all costs and damages, if he fails to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

In witness whereof, we have hereunto set our hands and seals this 17th day of February, A. D. 1904.

WM. BAER EWING.

[Seal]

THE AETNA INDEMNITY COMPANY, of Hartford, Connecticut,

By JUDSON C. BRUSIE,

Attorney in Fact.

[Seal]

Attest: W. A. POWNING,

Assistant Secretary.

Subscribed and acknowledged before me this 17th day of Feby., 1904.

[Seal] GEO. E. MORSE,
Clerk U. S. District Court, Northern District of California.

Approved Feb. 23, 1904.

JOHN J. DE HAVEN,
Judge.

[Endorsed] : Filed Feb. 17, 1904. Geo. E. Morse, Clerk.

Writ of Error (Copy).

UNITED STATES OF AMERICA—ss.

The President of the United States, to the Honorable, the Judge of the District Court of the United States, for the Northern District of California, Greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court, before you, or some of you, between United States of America, defendant in error, a manifest error hath happened, to the great damage of the said William Baer Ewing, plaintiff in error, as by his complaint appears.

We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the

Clerk's Certificate to Transcript.

United States of America, }
Northern District of California. } ss.

I, George E. Morse, clerk of the District Court of the United States for the Northern District of California, do hereby certify and return to the Honorable, the United States Circuit Court of Appeals for the Ninth Circuit, that the foregoing volume, consisting of sixty-nine (69) pages, numbered consecutively from 1 to 69, inclusive, is a true and complete transcript of the records, proceedings, pleadings, orders, judgment and other proceedings in said cause, and of the whole thereof, as appears from the original records and files of said Court, made up pursuant to praecipe filed by the plaintiff in error; and I further certify and return that I have annexed to said transcript, and include within said paging the original citation, writ of error, and proof of service thereof.

I further certify that a copy of the writ of error was lodged in my office for defendant in error on the date of the issuance of the writ of error.

I further certify that the cost of said record, amounting to thirty-six dollars and fifty cents (\$36.50) has been paid by plaintiff in error.

In witness whereof, I have hereunto set my hand and affixed the seal of said court at San Francisco, in the Northern District of California, this 14th day of March, A. D. one thousand nine hundred and four, and of the In-

dependence of the United States the one hundred and twenty-eighth.

[Seal]

GEO. E. MORSE,
Clerk.

[Endorsed] : No. 1048. United States Circuit Court of Appeals for the Ninth Circuit. William Baer Ewing, Plaintiff in Error, vs. The United States of America, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court for the Northern District of California.

Filed March 14, 1904.

F. D. MONCKTON,
Clerk.

